



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/173601

PRELIMINARY RECITALS

Pursuant to a petition filed April 07, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on May 12, 2016, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly established a FoodShare (FS) overpayment in the amount of \$172 for the period of March 1, 2015 through April 30, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Kenosha County. She is the only person in her household.
2. On April 4, 2016 the agency sent the petitioner a notice stating that she was overpaid \$172 in FoodShare (FS) benefits for the period of March 1, 2015 through April 30, 2015.

3. In September 2014 the petitioner completed a renewal for her FS and Medical benefits. She reported and verified that her monthly gross income was \$948.16.
4. On October 9, 2014 the agency sent the petitioner a notice stating her FS and Medical benefits. The notice went on to state that “if your household’s total monthly income (before taxes) goes over \$972.50, you must report it by the 10th day of the next month.”
5. The petitioner’s monthly gross income was as follows:
 - a. January 2015 - \$1,384.60
 - b. February 2015 - \$765.10
 - c. March 2015 and April 2015 - \$1,375.00
6. The petitioner never reported her increase in income to the agency.
7. The petitioner’s monthly rent was \$640. She was also responsible for all of her utilities.
8. The petitioner received \$143 in monthly FS benefits in March and April 2015. Given her actual income, which was not reported, she was entitled to \$86 in monthly FS benefits.
9. The Division of Hearings and Appeals received the petitioner’s Request for Fair Hearing on April 11, 2016.

DISCUSSION

The Federal regulation concerning FoodShare overpayments requires a State agency to take action to establish a claim against any household that received an overissuance of FoodShare due to an intentional program violation, an inadvertent household error (also known as a “client error”), or an agency error (also known as a “non-client error”). 7 *Code of Federal Regulations (CFR)* § 273.18(b), see also *FoodShare Wisconsin Handbook (FSH)*, §7.3.2.

The FS regulations require that a household reports when their income exceeds 130% of the federal poverty level (FPL). *FoodShare Wisconsin Handbook (FSWH)* § 6.1.1.2. The household must report this increase in income by the 10th of the month following the income exceeding 130% of the FPL. *Id.*

In this case the petitioner’s income exceeded 130% FPL in January 2015. She had until February 10th to report her increase in income. This report would have impacted her March 2015 FS benefits and forward. She failed to report her increase in income causing the FS overpayment for March and April 2015.

The notice with the reporting requirements contained the medical, not the FS reporting requirements. The medical reporting requirements are lower than the FS reporting requirements. However, the petitioner’s income was over both reporting requirements in January 2015. Thus, she had to report by the 10th day of February.

The petitioner argued that she did not know that she had to report her increase in income. The agency sent her notice explaining this. This overpayment is due to client error. The agency does not allege that it was intentional on the petitioner’s part. I have reviewed the agency’s calculations of the overpayment, and those calculations are correct.

CONCLUSIONS OF LAW

The agency correctly established a FoodShare (FS) overpayment in the amount of \$172 for the period of March 1, 2015 through April 30, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 20th day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 20, 2016.

Kenosha County Human Service Department
Public Assistance Collection Unit
Division of Health Care Access and Accountability